

REMARKS

The foregoing proposed Amendment of Claim 1, incorporates the substance of Claims 2 and 3. It is submitted that the amended Claim 1 in conjunction with the following comments overcomes the rejection set out in the Official Action of April 5, 2002.

With regard to the rejection of Claim 3 under 35 U.S.C. § 112, second paragraph as being indefinite because soccer balls come in all sizes and can be “non-inflated” to various degrees, it may be true that soccer balls come in a range of sizes, but there is no evidence and it is contrary to reason that soccer balls “come in all sizes.” No one would consider a ball the size of a golf ball to be a soccer ball. The present invention is certainly entitled to a range of sizes within what would normally be considered a soccer ball. To require the claims to be amended to a specific numerical dimension so that it could be avoided by a minor variation, is totally unreasonable.

Similarly, “non-inflated” is used in Claim 1 to contrast with “inflated.” It is submitted that this distinction is sufficient for one skilled in the art to understand the limits of the term “non-inflated” within reason. To require the claim to recite a particular pressure of non-inflation would be requiring an undue limitation to the claim.

With regard to the rejection of the claims under 35 U.S.C. § 102(e) and § 103(a), the Official Action relies on the Armstrong III patent as the primary reference contending that Armstrong III discloses a tennis ball that may be made of whatever size is desired. However, the only disclosure in Armstrong III as to the size of the tennis ball is the statement in column 2, lines 55-59 that reads:

Looking at FIG 5a, the ball 30 of the game apparatus 10 is typically slightly smaller than a conventional tennis ball (approximately 2.5 inches in diameter), although the size can be varied according to the choice of the player.

This disclosure of a ball slightly smaller than a conventional tennis ball of approximately 2.5 inches in diameter along with the broadening statement that the size can be varied according to the choice of the player, is certainly not a disclosure or suggestion that the ball can be approximately the size of a soccer ball or larger. There is nothing in the Armstrong III patent that would teach or suggest the use of a ball at least as large as a soccer ball, particularly as the disclosure is of the use of a ball slightly smaller than a tennis ball.

For the foregoing reasons, it is respectfully submitted that Claim 1, as now amended to incorporate the substance of original Claims 2 and 3, defines patentable invention over the Armstrong III patent, and as the Armstrong III patent is the only prior art reference relied upon by the Examiner in rejecting Claims 1, 2 and 3, it is respectfully submitted that amended Claim 1 is now allowable. As the other presently pending claims, Claims 5, 6, 11, 12, 18 and 19 all depend from Claim 1, they are allowable for the same reasons.

Reconsideration and allowance of the claims presently pending in the present application are respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Claim 1 has been amended as follows:

- 1/ 2. (Amended) A golf practice and exercise system, comprising a flexible, hollow uninflated practice ball of at least the approximate size of a non-inflated soccer ball and generally spherical and made of pliable material having a low coefficient of elastic restitution such when struck the practice ball travels a short distance relative to the striking force applied to it, and a target assembly against which the practice ball is propelled after being struck from a striking position a sufficient distance from the target assembly that when the practice ball is struck by a golf club swung by a golfer it travels in a direction imposed by the golfer's swing, whereby the golfer can practice to control the travel of the practice ball and to develop golf swing strength.

Please cancel Claims 2 and 3.